Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	))	CC Docket No. 94-1
	)	
Low-Volume Long Distance Users	)	CC Docket No. 99-249
	)	
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45
	)	

REPLY COMMENTS OF GTE

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036
(202) 463-5214

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge, MS HQ-E03J43
P.O. Box 152092
Irving, Texas 75015-2092
(972) 718-6361

Gregory J. Vogt
Suzanne Yelen
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Its Attorneys

December 3, 1999

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SUMMARY

The Coalition for Affordable Local and Long Distance Services ("CALLS") has presented the Commission with a unique opportunity to resolve more than two decades of bitter disputes that have prevented the creation of efficient and pro-competitive method to price interstate access services. This proceeding's record clearly demonstrates the need for a global compromise, yet some commenters continue to focus on narrow self interests and have pressed the Commission to adopt uneconomic, illegal and short-sighted rules.

The CALLS Proposal Will Make Virtually All Consumers Better Off. The CALLS proposal, by simplifying common line pricing, will benefit *all* users. The plan will lower overall long distance prices, as well as encouraging investment in rural areas by removing regulatory disincentives and implicit subsidies. Moreover, the CALLS plan will reduce customer confusion created by complex long distance bills. Finally, the CALLS proposal to shift switching costs from PICCs to the SLC will promote competition by incenting all LECs to lower loop costs.

Further, the plan will benefit the often overlooked interests of low-volume and low-income users. When reduced access charges and increased universal service support are taken into account, in almost all cases low-volume customers will be better off under the CALLS plan than with the current regime of charges. Low-income users will also benefit from the CALLS proposal because it increases Lifeline support precisely targeted to low-income consumers.

The Commission Must Reject All Requests to Prescribe "Forward-Looking" Access Rates. Several commenters have argued that the Commission should abandon its well-established price cap policy and instead prescribe immediate reductions in switched access rates. These claims derogate the firmly-established policy of using price caps as the method for incrementally reducing access charges. Proposals for a prescriptive approach based upon forward-looking economic cost are particularly bad economic policy. Such pricing would preclude ILECs from recovering their actual costs of providing access services and would deter future investment in switching infrastructure. Further, forcing ILECs to set access charges at TELRIC or TSLRIC would potentially require ILECs to be compensated under the Takings Clause of the Fifth Amendment.

Nor should the Commission accept the invitation to use this proceeding to reinitialize the PCIs. This is irrelevant to consideration of the CALLS plan, which actually provides for *deeper* reductions in interstate access rates than under the existing price cap structure.

Targeting Initial X-Factor Reductions to the Switching Basket Is Sound Policy. Contrary to the beliefs of some, targeting the X-factor initially to lower switching charges, followed by an adjustment once rates are competitive, is in the public interest because the CALLS proposal will end the X-factor controversy and produce stable business expectations. Arguments in support of reducing average switching rates below the targeted levels fail to recognize that achievable productivity gains are rapidly declining.

Moreover, the CALLS Proposal Will Not Cause Uneconomic Increases in Other Baskets. No party has produced convincing evidence that common line pricing will become unreasonable with the modifications to the X-factor proposed by CALLS. Similarly, competition will keep special access pricing at reasonable levels. Further, under the CALLS plan, carriers are permitted to continue to target X-factor reductions to special access services in order to prevent any significant disparity in rates. In any event, despite the notions of some commenters, price caps do not mandate that rates be maintained at a certain level; carriers are free to set rates below the PCI.

The CALLS Proposal Universal Service Fund Size Is Reasonable and Necessary to Ensure Compliance with Section 254 of the Act. As an initial matter, the $650 million that the CALLS Proposal establishes for the universal service fund is reasonable. This figure is far lower than even the most conservative estimate of implicit subsidies in access charges and is the product of a balanced debate between parties that have diametrically opposite interests.

Most importantly, the CALLS proposal establishes a level of support that will ensure affordable and comparable end user rates through an explicit, predictable, and competitively-neutral universal service program. As such, the CALLS proposal is consistent with Section 254 and represents a superior alternative to today's situation, in which implicit, nonportable subsidies continue to exist in access rates. Under CALLS, the subsidy is fully portable, does not provide a guaranteed subsidy to a selected set of carriers, and complies with the FCC's policy concerning CLEC recovery.

In short, GTE urges the FCC to adopt as proposed the CALLS comprehensive plan for access pricing and universal service protections, as it represents not only the consensus of opinion but also the surest route to a far-reaching, pro-competitive solution to these long debated issues.

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GTE Service Corporation and its below-listed affiliates (collectively "GTE")[1] respectfully submit their Reply Comments on the Further Notice of Proposed Rulemaking in the above-captioned docket.[2] The Coalition for Affordable Local and Long Distance Services ("CALLS") has presented the Commission with a unique historic opportunity: the chance to resolve more than

[1] GTE Alaska, Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., GTE West Coast Incorporated, Contel of the South, Inc., and GTE Communications Corporation.

[2] *Access Charge Reform*, FCC 99-235, CC Docket No. 96-262, et al., (Notice of Proposed Rulemaking) (rel. Sept. 15, 1999) (hereinafter "*NPRM*"). Unless otherwise noted, all comments cited herein were filed in CC Docket No. 96-262, et al. on Nov. 12, 1999.

two decades of bitter disputes that have accompanied the quest for the most efficient and pro-competitive method to price interstate access services. The vast majority of the commenters on this plan have asked the Commission to take the high road at this juncture and have supported the CALLS effort enthusiastically, although some have suggested major alterations to the plan. Others, however, urged the Commission to take the low road – to continue down the path of divisiveness – and to deepen the discord by adopting uneconomic, illegal and short-sighted rules. In effect, these latter parties seek to erase two decades of Commission progress toward a rational pricing philosophy by calling for a retreat to an antiquated regulatory model that both undermines competition and harms consumers. GTE urges the FCC to adopt as proposed the CALLS comprehensive plan for access pricing and universal service protections. It represents not only the consensus of opinion among previously adverse parties but also the surest route to a far-reaching, pro-competitive solution to these long debated issues.

I. THE COMMISSION SHOULD SEIZE THIS HISTORIC OPPORTUNITY TO COMPLETE THE FINAL CHAPTER OF THE ACCESS REFORM AND UNIVERSAL SERVICE SAGA.

Looking beyond the rhetoric that accompanies the comments, there are three general observations that shed light on the public interest equation implicated by the CALLS proposal. First, there is an urgent need for a global compromise of these critical issues: the solution may not please everyone, but it will substantially advance goals that most parties will support. Second, the parties who want to discontinue federal end user pricing for the common line by placing all recovery on the PICC charge are simply reiterating arguments that have been repeatedly rejected by the FCC and the courts. Third, the Coalition proposal should not be dismissed merely because some parties did not sit at the discussion table: if the plan is in the public interest, it should be adopted without modification.

The record demonstrates a critical need for a global compromise. Even a cursory review of the record demonstrates the universal desire for action, including from parties with often divergent viewpoints who have become united in their general support for the CALLS Coalition's effort. This support consists of IXCs such as MCI and C&W USA, which backed significant aspects of the plan even though they did not formally sign the Coalition document,[3] and major CLECs, such as Time Warner Telecom and ALTS, the leading trade association of CLECs, which have also supported basic elements of the proposal.[4]   Some of these same parties, however, argue that the Commission should alter certain aspects of the plan. For instance, MCI, C&W USA and the Competitive Telecommunications Association repeat the threadbare argument that access prices should immediately be reduced to forward-looking economic cost levels.[5]

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[3] *See* Comments of MCI WorldCom at 2-3 ("MCI"), Cable and Wireless USA at 1-2 ("C&W USA").

[4] *See* Comments of Time Warner Telecom at 1-2 ("TW"), Comments of the Association for Local Telecommunications at 2 ("ALTS").

[5] C&W USA Comments at 4; Comments of the Competitive Telecommunications Association at 12 ("CompTel"); MCI Comments at 4-5.

The Telecommunications Resellers Association insists on delaying deaveraging until the multiline business PICC has been eliminated.[6] And MCI wants to increase the X-factor.[7] These parties have for years presented these arguments in proceeding after proceeding before the Commission, without success. So while they may support change, these parties nevertheless have attempted to inject their pet issues into a proceeding where they are neither proper nor justified.

The Commission should recognize that none of these parties that have attempted to fashion a comprehensive, non-partisan solution to the vexing problems of access pricing and the elimination of implicit subsidies. Progress in this area is, admittedly, not easy, as demonstrated by the extensive proceedings the FCC has undertaken in this area. Addressing these issues in a piecemeal manner, as suggested by these commenters, would perpetuate the internecine warfare that has plagued the Commission for years. The CALLS proposal is a comprehensive solution to end these previously intractable disputes and holds the greatest promise for moving forward in the public interest.

To be sure, individual pieces of the plan will not please everyone. And individual parties may think that they can fashion a better comprehensive plan – although it is significant to note that no party accepted the FCC's challenge to

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[6] Comments of the Telecommunications Resellers Association at 4 ("TRA").

[7] *See* MCI Comments at 16.

place an alternative global solution on the table.[8] Yet, progress on such a range of contentious issues required the Coalition members to check their parochial interests at the door, in pursuit of achieving a universally acceptable solution. In doing so, the participants sought to balance concessions against gains to achieve the delicate balance that the CALLS proposal embodies. If the Commission now fails to adopt and implement this broad ranging plan in its entirety by making significant changes to key components of the plan, the Coalition that created it will disintegrate, ensuring that no solution is achieved. The destruction of this compromise would clearly be worse than adopting a solution that contains certain elements to which some parties may object. In the spirit of the "grand compromise" that the CALLS plan represents, GTE urges the FCC to adopt the CALLS plan as proposed.

The Commission must again reject calls for eliminating SLCs. Some parties have dusted off a time-worn chestnut for this proceeding – that customers will be better off by abolishing the SLC and moving common line recovery to the PICC charge. The argument appears in a variety of guises, including that IXCs should not get a "free ride" and SLCs should not be permanently institutionalized. Regardless of their form, these arguments should be swiftly dismissed.

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[8] It is equally significant that all of these parties apparently dislike the current regime more than CALLS because they all argue for some sort of changes.

These arguments reflect a fundamental misconception of the CALLS plan: that the existing SLC will increase for certain customers. To the contrary, the CALLS plan combines the existing SLC and PICC charges into a new end user element. An objective assessment of the CALLS plan reveals that (1) by and large, consumers are better off under the CALLS proposal, (2) any end user charges will be modest when compared to the combined SLC and IXC pass-through charges that now appear on consumers' bills (particularly given the fact that the current SLC cap has not been raised, even for inflation, in over 10 years),[9] and (3) long distance consumers will receive generous benefits from the plan. Moreover, it is fair and reasonable to expect that the consumers who use the line should shoulder its cost.

The CALLS compromise addresses all interests. Finally, some have condemned the CALLS plan because it was not signed by every conceivable party that might have an interest in the outcome of Commission action on these important issues.[10] Some have even gone so far as to argue that the whole plan should be rejected on this basis alone.[11] Regardless, there is nothing sinister or improper about the constituency that signed the CALLS proposal. The FCC should recognize the opportunity that the CALLS plan presents to jump-start a

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9 If the current $ 3.50 single-line residential cap had been adjusted each year for inflation since its adoption, the current rate would be $5.50.

10 *See e.g.*, Comments of the Competition Policy Institute at 1-2 ("CPI"); Comments of the General Services Administration at 6 ("GSA"); TRA Comments at 2.

11 *See* TRA Comments at 2.

process that has been languishing for far too long. Rather than deconstruct the proposal and unravel the progress that has already been achieved, the FCC should seize the chance to end the gridlock once and for all. GTE is confident that, when the rhetoric cools and the myriad misconceptions about the plan are cleared up,[12] support for the CALLS proposal will grow.

In the end, there can be little doubt that the comments demonstrate a desire for achieving comprehensive reform now. The CALLS plan offers the only non-partisan, forward-looking solution to the wide array of fractious issues that have lingered for years during various attempts at achieving access charge reform. The CALLS plan should be adopted in its entirety, not because the Coalition desires that result, but rather because it is a solution that resolves the issues in manner that will provide stability and predictability for carriers and users alike. Changes to the plan will create imbalances and disputes that will undoubtedly destroy the Coalition and lead to the perpetuation of the status quo – a result that everyone on the record agrees is unsatisfactory. As the MDTE's concluded, "Quick approval of the CALLS plan would be among the most significant actions taken by any regulatory body or court, since the passage of the Act, toward finally achieving the goals of the Act."[13]

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12 *See* CALLS Joint Reply for a complete recitation of these misconceptions.

13 Comments of the Massachusetts Department of Telecommunications and Energy at 9 ("MDTE").

II. SIMPLIFYING COMMON LINE PRICING WILL BENEFIT ALL USERS, INCLUDING LOW-VOLUME USERS, AND WILL ENSURE THAT COMPETITION HOLDS DOWN RATES TO EFFICIENT LEVELS

A. All consumers will benefit from the CALLS proposal

In its comments, the CALLS members demonstrated how their plan would clearly benefit all consumers. First, the plan will lower overall long distance prices. Lower long distance prices will not only help consumers by reducing their bills; they will also create new opportunities for businesses that rely on long distance, enhancing economic growth, job creation, and economic development, especially in rural areas.[14] In addition, the $650 million in universal service funding will ensure that rural areas maintain rates comparable to those in urban areas.[15] Second, the CALLS proposal encourages investment in broadband-capable technologies in rural areas by removing regulatory disincentives and implicit subsidies.[16]

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[14] When the Commission first introduced SLCs in the 1980s, the dramatic reductions in long distance rates led to a massive expansion in the use of long distance, and the development of businesses that could not have existed under the previous regime. We are now in the longest peacetime expansion in American history – an expansion that has been largely driven by telecommunications. It is not surprising, therefore, that the National Association of Development Organizations ("NADO"), whose "primary goal is to assure all rural citizens have employment opportunities, public services, and a quality of life comparable to other Americans" supports adoption of the CALLS proposal. *See* Comments of the Alliance for Public Technology, the Communications Workers of America and the National Association of Development Organizations at 2 ("APT/CWA/NADO").

[15] Comments of the Coalition for Affordable Local and Long Distance Service at 3-4 ("CALLS").

[16] *Id.* at 5-6.

Third, the CALLS plan will reduce customer confusion over complex long distance bills.[17] By consolidating loop-related charges, customers will have fewer line items on their bills and will have a better understanding of their charges. The CALLS plan also eliminates the artificial distinction between primary and secondary lines. Fourth, the CALLS plan promotes consumer choice through facilities-based competition.[18] Consolidating and rationalizing common line charges allows for more direct competition between providers and provides economically reasonable market entry incentives. Finally, the CALLS plan will provide stability for at least five years to a regulatory arena which has been in constant flux.[19] Such stability will encourage investment and competition.

Numerous commenters agree that the CALLS plan will increase consumer welfare.[20] Nonetheless, some parties argue that consumers will be harmed by the CALLS proposal by being subject to higher overall local and long distance charges. As explained below, this is not the case.

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17 *Id.* at 8-9.

18 *Id.* at 9-10.

19 *Id.* at 10-11.

20 *See, e.g.*, APT/CWA/NADO Comments at 5-7; GSA Comments at 3-4; MDTE Comments at 3-8; Comments of Qwest at 5.

1. Consumers will generally pay the same or lower rates under the CALLS proposal as under the current regulatory scheme.

Several commenters, such as the New Jersey Division of the Ratepayer Advocate, argue that residential and small business customers will pay more under the CALLS plan than they would under the current regulatory scheme.[21] However, this conclusion is based on two misconceptions. First, these parties incorrectly focus on the change in the cap on SLCs in the CALLS plan, rather than the expected changes to consumer rates. In most cases, rates under the CALLS plan will never reach the caps.[22]

Second, parties compare the flat-rate charges in the CALLS proposal with the current rates and fail to account for the fact that if the CALLS plan is not adopted, PICC rates will continue to increase under the Commission's current rules. When future PICC rates are included in the calculations, residential and business customers are better off under the CALLS plan than under the current regulatory mechanism. Today, single-line customers pay a SLC of $3.50, plus an average PICC pass-through charge from their IXCs of $1.50, for a total

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[21] *See, e.g.*, Comments of New Jersey Division of the Ratepayer Advocate at 8-12 ("New Jersey").

[22] Under the CALLS proposal, the SLC for single-line customers will transition upward over time, until the SLCs in a given filing entity generate the average revenue per line permitted under price caps ("CMT revenue per line"), or until the $7 cap is reached. In many areas, the average CMT revenue per line is less than $7. Thus, even in 2000, when the primary SLC cap is $5.50, the average primary SLC will be $5.37. In July 2003, when the cap will have reached $7, the average primary SLC will be $6.15.

monthly flat-rate charge of $5.00.[23] In July 2000, the PICC is scheduled to increase by 50 cents, so the new total monthly flat-rate charge would be $5.50. The SLC cap proposed by CALLS members for single-line customers in 2000 is $5.50.[24] There is thus no difference between the SLC the CALLS plan will impose and the average flat-rate charge single-line customers would pay if the current rules remained in place in July 2000.

In subsequent years, the current rules provide for further increases in the PICC charge of 50 cents (plus inflation) per year. There is no specific upper limit to these increases, as there is for the SLC in the CALLS plan; the PICC increases continue until the rates recover the common line revenues allowed under price caps. For GTE, the average level of the single line PICC will reach a maximum of about $3 per line in 2003, and in higher cost study areas the PICC will be more than $4.50 by 2005. Therefore, by 2003, the sum of the SLC and the PICC pass-through from the IXC under the current rules could well reach a level comparable to the highest SLC allowed under the CALLS plan, and would be considerably higher in high-cost areas.

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23 The current PICC charge cap for single-line customers is $1.04. The pass-through of this charge by IXCs reflects costs of administration, billing, and uncollectibles, as well as the averaging of recovery across primary and non-primary lines.

24 In 2003, the cap will be $7 for residential and single line business. In some study areas, a lower SLC charge will suffice to recover the allowed price cap revenue (“CMT revenue per line”), and in these areas the SLC will be below the cap. The average single-line SLC is only $5.37.

The CALLS plan would increase the single-line SLC in transitional steps which would closely parallel the PICC increases already provided for in the current rules. At the end of this transition, the average single-line SLC for all price cap companies would be about $6.15, or just over a dollar higher than the average flat-rate amount customers would have paid through the sum of the current SLC and the PICC under the current rules. However, this change is offset by reductions in long distance per-minute usage charges, increases in universal service funding (which allow the $7 cap in high cost areas), and the enhanced Lifeline program.

A static comparison of rate changes on a customer's current bill fails to capture some of the benefits made possible by the CALLS plan, because it ignores the increased usage customers will make of long distance calling in response to the reduction in long distance rates. A more complete measure of the benefits of the plan is the change in consumer welfare, which takes account of consumers' response to rate changes. APT, CWA, and NADO report the results of a study by Joel Popkin and Company which finds that the CALLS plan will generate $1.2 billion annually in additional consumer benefits for residential customers.[25]

[25] APT/CWA/NADO at 4. These results are generally consistent with those of a study by Robert Crandall and Jeffrey Rohlfs, attached to BellSouth's reply comments.

2. Low-volume and low-income consumers will benefit from the CALLS proposal.

Several parties claim that the CALLS plan will hurt consumers by increasing charges for low-volume and low-income customers.[26] These assertions are misguided. The parties concerned with the CALLS plan's effects seem to confuse low-volume and low-income consumers. As GTE explained in the Commission's Low-Volume proceeding:

> there is little evidence of a correlation between low-income and low-volume consumers. Data from a national sample of customers' bills suggest that nearly one-half of the average bill for consumers in the lowest income category is attributable to toll usage. Further, while long distance usage does rise with income, the proportion of the total bill that is spent on long distance is surprisingly constant across income categories.[27]

Several state commissions, consumer groups, and carriers support this conclusion.[28] Indeed, Commissioner Powell has also stated that it is not reasonable to establish low-volume users as a "protected class." Therefore, low-volume and low-income customers must be considered separately.

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[26] See Comments of Florida Public Service Commission at 5 ("FPSC"); Comments of the National Association of State Utility Consumer Advocates at 13-15 ("NASUCA"); Comments of Texas Office of Public Utility Counsel, et al., at 6 ("Joint Consumer Commentors").

[27] Comments of GTE, CC Docket No. 99-249 at 9 (filed Sept. 22, 1999).

[28] *See, e.g.*, Comments of AARP, CC Docket No. 99-249 at 2 (filed Sept. 22, 1999); Comments of the Michigan Public Service Commission, CC Docket No. 99-249 at 3 (filed Sept. 20, 1999); Comments of Excel Communications, Inc., CC Docket No. 99-249 at 4-5 (filed Sept. 22, 1999); Comments of the Rural Telephone Coalition, CC Docket No. 99-249 at 6 (filed Sept. 22, 1999).

CALLS members have done a detailed analysis of the effects on low-volume consumers' bills of the CALLS plan versus the current regulatory regime.[29] Even with the revised SLC, when reduced usage charges and increased universal service support are taken into account, in almost all cases low-volume customers will be better off under the CALLS plan than with the current SLC/PICC charges. For example, in July 2000, a representative low-volume customer's average bill would be $1.47 lower per month under the CALLS proposal,[30] and in July 2003, a low-volume customer would still be an average of 69 cents better off under the CALLS plan. Even considering the worst-case scenario under the CALLS plan, when the SLC in a high-cost area reaches the $7 cap, an average low-volume customer's bill would only be 19 cents higher than it would be under the current Commission rules.

Low-income users will also benefit from the CALLS proposal. As the CALLS members explained in their comments, their proposal provides for an increase in Lifeline support precisely targeted to low-income consumers.[31]

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[29] *See* Attachment A (containing a sample bill detailing changes that would result from the CALLS proposal).

[30] AT&T has recently announces a change, which it developed in the context of the CALLS plan, in the way in which it passes through universal service contributions to its customers. Currently, AT&T does this through a flat charge per account. Next year, for basic schedule customers, AT&T will shift to a charge based on a percentage of the customer's bill. The first sample bill in Attachment A reflects this change. The second sample bill assumes this percentage-based recovery would also occur under the current rules. Even in this second case, the CALLS plan would still reduce the customer's bill by 33 cents.

[31] CALLS Comments at 4-5.

Currently, Lifeline consumers do not have to pay the SLC but are required to pay the PICC recovery charges passed through by the IXCs, unless that fee is waived.[32] The CALLS plan provides for waiver of the revised SLC and eliminates the PICC charges. In addition, per-minute long distance charges will be lower. Therefore, no low-income customer who qualifies for Lifeline can be made worse off by CALLS – even the extreme case of a customer who does not pay the PICC today, and who has no toll usage. Most low-income customers do pay the PICC pass-through charge today, and so would benefit by about $1.50 per month (the average PICC pass-through for large IXCs). In addition, as noted above, long distance calling represents a significant portion of the average low-income customer's bill, so that these customers will benefit from the lower usage charges under the CALLS plan Thus, low income customers cannot be harmed under the CALLS plan, and most such customers will see significant benefits. The consumer welfare study submitted by APT, CWA, and NADO finds that Lifeline customers with incomes below $10,000 would receive almost 3 percent in annual welfare gains under the CALLS proposal.[33]

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[32] The Commission's rules allow ILECs to waive PICC charges for customers who choose toll blocking. Some IXCs will waive PICC pass-through charges for customers who qualify for Lifeline.

[33] APT/CWA/NADO at 6.

3. CALLS' limited geographic deaveraging clearly benefits consumers and is consistent with maintaining affordable rates.

FPSC argues that geographic deaveraging contained in the CALLS plan will harm consumers in high cost areas and will risk producing rates that are not affordable.[34] The limited geographic deaveraging permitted under the CALLS proposal produces clear consumer benefits in both urban and rural areas. Urban customers will enjoy lower rates. Rural customers will be protected by the CALLS cap, which will be lower than the charges that some customers could pay under the Commission's rules.[35] All customers will benefit from the added competition that is possible once implicit subsidies are explicit and portable to competitors. This is particularly beneficial to rural customers, since new entrants will for the first time be able to compete against non-subsidized rates. The affordability concerns evaporate when the facts are clear: the $7 cap for residential and single line business SLCs, the maximum that can be charged in any area, is very close to the current average common line revenue per line of $6.15. In contrast, single-line PICCs will range from $0 in some cases to more than $4.80 in others. For multiline business customers, the range will be even more extreme – from $0 to more than $12. Therefore, the degree of difference

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34 FPSC Comments at 8.

35 *See* Section II.A.1, *supra*.

should be minimal, clearly keeping rates within a reasonably affordable range that is smaller than differences contained in today's various common line rates.[36]

4. Business customers would also benefit from CALLS

Business customers would also receive significant benefits under the CALLS proposal. The cap on the multiline business PICC would be reduced immediately to $4.00, and the plan would implement a rapid downward transition which would essentially eliminate the charge by the end of the CALLS plan. Multiline business SLCs would also be significantly reduced in most areas, and in many areas the difference between SLCs for multline customers and other classes would be eliminated. Businesses would also benefit from the dramatic reduction in switched access usage rates. The consumer welfare analysis performed for APT, CWA, and NADO finds that the CALLS plan will produce $4.1 billion dollars of benefits for business customers annually.[37]

The Joint Consumer Commentors complain that the aggregate welfare gains from the CALLS plan are larger for business customers than for residence customers.[38] This is hardly a valid reason to forego the very substantial gains that both business and residence customers will realize under CALLS. Further, this difference is simply a reflection of the fact that the Commission's current

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36 Not only rates in every zone, but because CALLS limits rates across zones, it comports with the comparability that is required in Section 254(b).

37 Pociask attachment to APT/CWA/NADO, at 1.

38 Joint Consumer Commentors at 42.

plan, adopted in 1997, has deliberately used high rates for business customers to fund its rate transition, while cushioning effects on residence customers. Business customers today pay higher SLCs as well as higher PICCs. However, even under the current rules, this difference is largely temporary; under the Commission's "cascade," business PICCs will be reduced over time. Thus, as the current high rates for business customers are phased down over the next few years, business customers will appear to benefit more. This relative effect would also happen under the current rules, and it represents the rolling back of rate differences that were unfair to business, rather than a windfall for business customers.

Several parties are concerned that while the CALLS plan consolidates the SLC and PICC charges for primary and non-primary lines immediately, it does not do so for multline business lines.[39] These commenters suggest that the CALLS plan should be amended to combine the SLC and PICC for multline customers as well. The different treatment of the PICC charges in the CALLS plan reflects the different purposes of the existing PICC charges. Today, the SLC charge for single-line customers is capped at a level below the average price cap revenue per line in most areas. The PICC is a mechanism for recovering part of the difference between the allowed revenue and the cap. In contrast, the cap for the multiline SLC has been set at a higher level, based on

[39] Ad Hoc, for example, suggests (at 7) that ILECs should bill the sum of the SLC and the PICC to multiline customers directly. Comments of Ad Hoc Telecommunications at 7.

the nationwide average of price cap revenue per line.[40] The PICC for multline customers thus serves, to a large extent, as an implicit subsidy mechanism, through which business customers support lower rates for other customer classes. Rather than embed this subsidy mechanism in the new SLC charge, the CALLS plan transitions the multiline PICC downward, and essentially eliminates it by the end of the plan.

Combining the SLC and the PICC for multiline customers immediately would expose some multiline business customers to unnecessary rate shock. Under the current rules, the multiline business PICC would continue to increase for the next few years in higher cost areas. In GTE's Idaho serving area, for example, the multiline business PICC would continue to increase until 2006, when it would be more than $12, for a combined charge, with the SLC, of over $21 per line. Today, multiline customers have not seen these extremes in their PICC pass-through charges, since IXCs have taken advantage of pricing flexibility that ILECs do not have to smooth these charges, both across geographic areas and across customer accounts. Capping the multiline PICC at $4, as CALLS proposes, provides an immediate benefit to business customers, and shields them from the rate shock they would experience if the widely differing PICC charges in different areas were billed directly.

40 However, since the cap is based on a nationwide average, in higher cost areas the multiline business PICC is still below the average revenue per line.

B. The 1996 Act requires that access pricing be altered to eliminate subsidies and promote competition

Several commenters assert that increasing the SLC and eliminating PICC charges will assign all of the costs of the local loop to the end user and that this violates the Act. For example, NRTA states that the fact "that flat recovery for local loop costs would better reflect economic cost causation does not mean that the flat rates must be charged to the end users and collected by the local exchange carrier from local exchange customers"[41] and that "a plan that provides cost-free use of the local loop by IXCs and, instead, assigns those costs only to end users … conflicts with section 254(k) of the 1996 Act."[42] Similarly, NASUCA argues that CALLS members' claims that "common line costs are supposedly 'caused' entirely by the end users" are "untrue."[43] These allegations are incorrect.

Section 254 of the Act specifically requires the Commission to replace implicit subsidies with sufficient, explicit funding. The costs of the loop do not vary based on the number or types of service provided over it. Charging the end user the full cost of the loop puts the costs directly on the cost causer. And, as

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41 Comments of the National Rural Telecom Association and the National Telephone Cooperative Association at 10 ("NRTA").

42 *Id.* at 11.

43 NASUCA Comments at 17.

the CALLS Comments indicated in some detail, end user pricing for the interstate common line element does not violate Section 254.[44]

Contrary to NRTA's claims, no service is getting to use the local loop for "free." Rather, the costs of the loop are borne by the end user and can be attributed to all of the services – local, long distance, Internet, and broadband – enjoyed by that customer. Regardless of whether a revised SLC or PICCs are used, the end user is still paying the full cost. However, with the revised SLC, the costs of the common line are collected in a more efficient manner, thus lowering costs, and will be subject to competition. In addition, the costs will be clearly identified for the end user, eliminating an implicit subsidy as required by Section 254 of the Act.

C. Common line pricing restructure is more conducive to competition than either the current structure or the all-PICC proposal

The CALLS proposal to move switching costs from PICCs to the SLC will promote competition better than either the current pricing structure or the elimination of the SLC in favor of increased PICCs. As explained in the CALLS comments, the current way in which PICCs are charged to consumers shelters them from competition. Long distance carriers may compete on the most efficient way to collect the PICC from their customers, but the actual charge is simply passed through. "[C]ompetition among IXCs may reduce the inefficiencies created by the PICC, but it will never reduce the underlying PICC

[44] CALLS Comments at 11-16.

charge itself. Neither the PICC nor its associated retail end user charges will be 'competed away.'"[45] With IXC pass-through of the PICC charges, consumers do not have an opportunity to make a rational choice to avoid these charges and select a more efficient carrier.

In contrast, moving the costs recovered by the PICC to the SLC will expose them to competition. End users are a potent competitive force, constantly looking for better deals. Since CLECs are not required to charge their customers SLCs, customers could find CLECs a more cost-effective option than the ILEC. This will put significant pressure on ILECs to price SLCs at market rates, closer to cost-based levels. In contrast to the current system, this gives consumers an opportunity to choose the most efficient carrier. In addition, since universal service funding is portable, competition will be encouraged even in high-cost areas. NASUCA is wrong in its assertion that CLECs will be unable to compete with ILECs if ILECs are providing "free" access.[46] Access is not being provided for free; rather, the end user is paying the full costs of the loop used to provide that end user with telecommunications services. Thus, CLECs and ILECs will both pass the full costs of the common line through to the customer and will compete to see which can provide that service in the most cost-effective manner, to the benefit of the consumer.

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45 *Id.* at 17.

46 NASUCA Comments at 32-33.

Although several parties criticize the CALLS proposal, none offers a complete, coherent alternative. The only other possibility even suggested is an all-PICC mechanism favored by NASUCA and the State Members of the Joint Board.[47] However, as explained in detail in the CALLS Comments, this would only exacerbate the inefficiencies of the current system.[48] An all-PICC regime will shield these charges from competition by ensuring that IXCs pass these costs directly through to their customers. This result is in direct conflict with the 1996 Act's requirement that implicit subsidies be eliminated and that there be competition in all telecommunications markets. The revised SLC proposed by CALLS members will help eliminate these long-standing subsidies and encourage the competition that Congress was seeking.

Several state commissions have recognized the benefits of the CALLS proposal. For example, MDTE states that:

> The CALLS plan presents an historic opportunity for the FCC in one stroke to promote several of the still-elusive goals of the Telecommunications Act of 1996. The CALLS Plan would reform the pricing system for interstate access to bring it more in line with the underlying cost structure. The CALLS Plan would target subsidies for social policies in an explicit manner that is consistent with the Act and more conducive to competition and investment than the current implicit pricing subsidies. In doing so, the CALLS Plan advances the policy goals of competition, universal service, investment in advanced technology, and simplified customer bills.[49]

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47 *Id.* at 33-34.

48 *See* CALLS Comments at 11-19.

49 MDTE at 2.

The MDTE also recognizes that some tradeoffs may be necessary in the near term to achieve these benefits: "Over the longer term, the perceived harm from the loss of subsidies for certain customers is likely to be outweighed by the benefits that these same customers will receive as a result of competition."[50] What is remarkable about the CALLS plan is that it achieves the broader benefits listed by MDTE, yet does so without imposing any significant "harm," in the form of rate increases, on any group of consumers. Because of the phased-in SLC increases, the cap on the SLCs, increased universal service funding, and enhanced Lifeline benefits, the realignment of rates required by the CALLS proposal will have only a modest impact on customer bills. In most cases, these small effects are positive, but the essential point is that they are small. Therefore, the Commission should focus on the considerable benefits the plan offers without fear of customer rate increases.

III. REDUCING ACCESS COST RECOVERY UP FRONT IS INCONSISTENT WITH FCC PRECEDENT AND WOULD LEAD TO INADEQUATE COST RECOVERY

A. Arguments in favor of an up-front slash in ILEC cost recovery have previously been rejected and should be rejected again

Several commenters argued that the Commission should abandon its price cap policy and instead prescribe immediate reductions in switched access rates to levels that would allow LECs to recover only some estimate of their

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[50] *Id.* at 3.

forward-looking incremental costs.[51] These claims ignore the Commission's now firmly-established policy of utilizing price caps as the method for incrementally reducing access charges, and its reaffirmation of a market-based approach to access charge reform in the 1997 *Access Reform Order*.[52] Because these commenters merely rehash arguments that have been repeatedly rejected by the Commission without providing any new or compelling argument for a dramatic shift in the Commission's access pricing policy, they should again be rejected.

Since 1991, the Commission has consistently and repeatedly declined to accept arguments that it should prescribe specific interstate access rates. Instead, the Commission implemented a system of price caps for determining the ceiling for interstate access charges. Under this market-based approach, ILECs have considerable incentive to achieve operating efficiencies because they are able to retain any profits that result from productivity increases that exceed the industry-wide productivity factor – the X-factor – set by the Commission.[53] In the

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51 *See, e.g.*, CompTel Comments at 12-14; Level 3 Communications, LLC Comments at 9-12 ("Level 3"); *see also* CPI Comments at 3 (urging immediate but unspecified prescriptive rate reductions). In addition, MCI has argued that the CALLS plan should be modified to continue X-Factor reductions below the target level of traffic-sensitive rates of 0.55 cents per minute. *See* MCI Comments at 13-18.

52 *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate and Structure and Pricing, End User Common Line Charges*, 12 FCC Rcd 15982 (1997) ("*Access Reform Order* "), *aff'd sub nom. Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8th Cir. 1998), Order on Reconsideration, 12 FCC Rcd 10119 (1997), Second Order on Reconsideration and Memorandum Opinion and Order, 12 FCC Rcd 16606 (1997).

53 *See Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC

1997 *Access Reform Order*, the Commission reaffirmed its commitment to the use of price caps and the market-based approach: "Price cap regulation encourages incumbent LECs to improve their efficiency by harnessing profit-making incentives to reduce costs, invest efficiently in new plant and facilities, and develop and deploy innovative service offerings, while setting price ceilings at reasonable levels."[54] That rationale applies with equal force today.

Moreover, in the *Access Reform Order*, the Commission explicitly addressed and *rejected* the argument for rate prescription advanced by the commenters here, on the basis that market-driven pricing inherent in price cap regulation provides a superior means of achieving competitive rates for access services:

> We decide that adopting a primarily market-based approach to reforming access charges will better serve the public interest than attempting immediately to prescribe new rates for all interstate access services based on the long-run incremental cost or forward-looking economic cost of interstate access services. Competitive markets are superior mechanisms for protecting consumers by ensuring that goods and services are provided to consumers in the most efficient manner possible and at prices that reflect the cost of production.[55]
>
> The Commission added:
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> *A market-based approach to rate regulation should produce, for consumers of telecommunication services, a better combination of prices, choices, and innovation than can be achieved through rate*

Rcd 6786, 6787 (Second Report and Order) (1990) ("*LEC Price Cap Order*"), *modified and clarified on reconsideration*, 6 FCC Rcd 2637 (1991).

54 *Access Reform Order*, 12 FCC Rcd at 15994.

55 *Id.* at 16094.

> *prescription*. A market-based approach, with continued price cap regulation of services not subject to substantial competition . . . is thus consistent both with the pro-competitive, deregulatory goals of the 1996 Act and with our responsibility under Title II, Part I of the Communications Act to ensure just and reasonable rates.[56]

Some parties, such as the California Public Utilities Commission,[57] argue that the CALLS plan is defective because it allows carriers to recover historical costs. This argument should be rejected because the CALLS plan is based on the amounts that the Commission currently allows ILECs to recover and is therefore a legitimate basis upon which to base the plan. Under rate of return regulation, which the Commission abandoned in 1990, ILECs were given the opportunity to recover their embedded costs. Since the implementation of price cap regulation in 1991, prices have not been tethered to a rate of return calculation, but rather have been set on the basis of the price cap formulas which lower access charges each year.

The Commission has repeatedly found over the past eight years that price caps have maintained access charges at reasonable levels. Initially, the Commission set the price cap index at a level based upon rates in effect on July 1, 1990, which it explicitly held to be reasonable.[58] In fact, the Commission found that the July 1, 1990 rates were in general "the best that rate of return

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56 *Id*. at 16107 (emphasis added).

57 *See, e.g.*, CompTel Comments at 13-14; Comments of the People of the State of California and the California Public Utilities Commission at 5 ("California PUC").

58 *See, e.g.*, *LEC Price Cap Order*, 5 FCC Rcd at 6814-16.

regulation can produce."[59] Moreover, since January 1, 1991, access rate ceilings have been adjusted downward each year to reflect productivity advances by application of the X-factor. In addition, the Commission has, as it deemed necessary, ordered additional reductions in access charges.[60] Consequently, price caps and thus access charges have fallen by more than 50% since 1991.[61] Throughout this period, access charges have remained at levels consistent with the Commission's plan. And they are at reasonable levels today.[62]

Some parties also argue that access rates should be decreased because they will allow ILECs to earn excess profits.[63] The Commission should also reject this argument for two reasons. First, as indicated previously, price cap rates are reasonable and permit the ILECs to earn that level of profits that is

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59 *Id*. at 6815.

60 *See, e.g.*, *Access Reform Order* at 16111-18 (ordering ILECs to make an exogenous cost decrease to account for the completion of amortization of equal access charges).

61 *See* Comments of William E. Taylor, Attached to Comments of USTA filed in *Access Charge Reform*, CC Docket No. 96-262, *et al.* (filed Oct. 29, 1999) ("Taylor Comments").

62 In fact, because the X-factor has been overstated since 1991, access charges are now *below* levels that would be reasonable under the price cap plan adopted by the Commission in 1990. For example, under one analysis the present 6.5% X-factor is more than 2.44% above the measured productivity rate of 4.06% over the past five years. *See* USTA Reply Comments in the *Access Charge Refresh the Record* proceeding, CC Docket No. 96-262, filed Nov. 29, 1999, Attachment 3, Professor Frank M. Gollop*, Economic Evaluation of "Q" Factor Proposed by AT&T*, at 2 (Nov. 22, 1999) ("Gollop Study").

63 California PUC Comments at 5.

necessary to provide an incentive to become more productive and efficient, just as the FCC intended when it instituted price caps. Second, as Frank M. Gollop has demonstrated elsewhere, the allegations of ILEC overearnings are unsubstantiated. This is true in part because accounting earnings distorts an ILEC's true earnings because of peculiarities in regulatory policies, in particular depreciation prescription practices. In addition, ILEC earnings growth has been substantially lower during the 1990s than that of a broad range of unregulated companies in the non-farm sector of the economy.[64]

In the 1997 *Access Reform Order*, the Commission recognized that price caps have maintained access prices at reasonable levels and, importantly, provide the best means of achieving competitive, cost-based prices in the future. Given that the price cap methodology provides the best means for achieving further reductions to cost-based prices, there is no rational basis for the Commission now to prescribe a different level of access rates. The parties that argue for rate prescription in this proceeding have raised the same arguments that were rejected by the Commission in the 1997 *Access Reform Order*. They should again be rejected for the reasons stated in that *Order*.

Moreover, rate prescription is even less appropriate now in light of the proposed CALLS plan, which would *accelerate* the rate at which access charges are driven downward to cost by concentrating the X-factor productivity adjustment on the interstate switching basket alone. As the CALLS

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64 *See* Gollop Study at 9-10; *see also* Taylor Comments.

Memorandum states, interstate switching rates would be cut in half from present levels – to 0.55 cents per minute for the largest price cap carriers.[65] The CALLS plan, in other words, achieves greater reductions in access charges than would be attained under the existing price cap methodology. Consequently, the Commission can best serve its goal of moving access charges to competitive levels through the use of market forces by adopting the CALLS plan.[66]

B. Adopting a prescriptive approach based upon forward-looking economic cost would prevent ILECs from recovering their costs and would require resolution of ILEC embedded cost recovery issues

In addition to contravening established Commission policy of using a market-based approach, the prescriptive approach based upon forward-looking economic cost advocated by several commenters is particularly inappropriate because it represents bad economic policy and will preclude ILECs from recovering their actual costs of providing access services. If the Commission adopts a policy that deprives ILECs of the ability to recover their actual costs – thus thwarting the reasonable expectations in place at the time the investments

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65 *See* Memorandum in Support of the Coalition for Local and Long Distance Service Plan, CC Docket Nos. 94-1, 96-45, 99-249, 99-262, Aug. 20, 1999, at 10 ("CALLS Memorandum").

66 Moreover, even if the Commission were to prescribe TELRIC or TSLRIC-based rates, it has stated that it would probably phase-in rate reductions over an unspecified "period of years, in order to avoid the rate shock that would accompany such a great rate reduction at one time." *Access Reform Order*, 12 FCC Rcd at 16107. Accordingly, the phase-in of access charge reductions set out in the CALLS plan is certainly no more gradual than the phase-in that the

were made – it would have to address the inevitable subsequent takings claims seeking recovery of just compensation for stranded investments.

As a matter of sound economic policy, ILECs must be permitted to recover their reasonable and prudent actual costs of providing access service, including shared or common costs such as overhead. If the Commission were to do otherwise, it would provide a severe deterrent to any future investment in switching infrastructure. Yet, it is clear that TELRIC or TSLRIC pricing for interstate access would lead to a "shortfall in [an ILEC's] ability to recover its full economic cost of providing [access] service."[67] Because ILECs provide multiple services which have shared and common costs, there are significant costs that cannot be recovered under any pricing scheme based upon TSLRIC or TELRIC.[68] Stated succinctly, "[i]f all of [an ILEC]'s services were to be sold at their TELRIC's, then the firm would not cover its total costs,"[69] which would

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Commission itself deems to be reasonable.

[67] USTA Reply Comments, CC Docket No. 96-262, Feb. 14, 1997, Attachment 2, Reply Affidavit of J. Gregory Sidak & Daniel F. Spulber ("Sidak/Spulber Reply") at 3.

[68] *See id*. at 5-6. For this reason, Sidak and Spulber conclude that "TELRIC pricing guarantees losses and is thus inherently confiscatory." *Id*. at 6.

[69] *Id*. at 5; *see also* USTA Reply Comments, CC Docket No. 96-262, Feb. 14, 1997, Attachment 3, Economic Aspects of Access Reform: A Reply, Richard Schmalensee & William E. Taylor ("Schmalensee/Taylor Reply") at 3 ("[P]ricing at TELRIC/TSLRIC does not allow a firm to recover its common costs.").

inevitably result in "adverse economic consequences for consumers and incumbent LECs."[70]

The Commission has permitted ILECs to recover reasonable overhead costs from access charges in the past and should continue to do so in the future.[71] This policy has obviated the need to place the entire burden of overhead cost recovery on local exchange service. The CALLS plan strikes a fair compromise by providing for significant reductions in access charge price caps without prescribing that ILECs immediately reduce access charges to incremental cost.

In addition to the policy concerns stated above, there are significant problems associated with implementing any forward-looking economic cost pricing methodology that weigh heavily against adopting such a pricing regime. In the 1997 *Access Reform Order*, the Commission recognized that, despite the extensive record in that proceeding, it "is unclear [] whether there is an accurate and convenient method for determining TSLRIC" for purposes of adjusting access price caps downward.[72] These concerns apply equally to determining TSLRIC for purposes of prescribing rates. As, the Commission stated, "it is

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70 Sidak/Spulber Reply at 3. Sidak and Spulber advocated allowing ILECs to recover a "competitively neutral and nonbypassable charge sufficient to meet the incumbent LECs shortfall in its ability to recover its full economic cost of providing [access] service." *Id*.

71 TELRIC does not allow full overhead cost recovery and the HCPM is not designed to model such costs.

72 *Access Reform Order*, 12 FCC Rcd at 16109-10.

unclear whether the TELRIC studies used to develop unbundled network element prices can be used for access services."[73] These comments acknowledge that any effort to prescribe rates based on forward-looking economic costs would result in pricing based more on guesswork than true costs. It would be imprudent to abandon a price cap regulatory system that has successfully driven access rates steadily downward, and which, as modified by the CALLS plan, will lead to dramatic access rate reductions in the next two years.

If the Commission were to require ILECs to set access charges at TELRIC or TSLRIC, it would need to address Constitutional arguments that such a pricing scheme violates the takings clause of the Fifth Amendment. As discussed above, access charges set at TELRIC or TSLRIC would prevent ILECs from recovering the total costs of providing access services. This action would raise at least three takings issues: (1) ILECs would be required to provide access service at prices that do not cover all of their costs; (2) ILECs would be deprived of the opportunity to earn a fair rate of return on prudently invested capital; and (3) the Commission will have breached the regulatory bargain that formed the basis of prior ILEC investments in infrastructure. Under the takings clause, ILECs would be entitled to just compensation for each of these burdens imposed by the Commission's action.

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[73] *Id*. at 16110.

C. The Commission Should Decline The Invitation To Reinitialize PCIs.

Several parties have used this proceeding as yet another opportunity to argue that the Commission erred in setting the initial PCIs and thus should use this proceeding to reinitialize the PCIs. Specifically, these commenters assert that initial price cap rates adopted in 1990 were overstated due to the inclusion of the costs of "phantom" assets.[74] This argument is utterly irrelevant to consideration of the CALLS plan, which actually provides for *deeper* reductions in interstate access rates than would occur under the Commission's existing price cap structure. Further, because this argument relies entirely upon flawed continuing property records ("CPR") audits, it provides no justification for any adjustment to access rates. As GTE and others have explained, the Commission staff performed audits of ILEC CPR applying standards that were not consistent with the Part 32 rules and adopted audit procedures that produced biased samples and thus unreliable results.[75] Accordingly, the "phantom assets" argument is itself illusory and should be rejected.

IV. TARGETING THE X-FACTOR INITIALLY TO LOWER SWITCHING CHARGES AND THEN ADJUSTING THE LEVEL ONCE RATES ARE COMPETITIVE IS IN THE PUBLIC INTEREST

Several parties have questioned two aspects of the CALLS plan related to the application of the productivity factor in the price cap formula. First, some

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[74] *See* MCI Comments at 15-16; Joint Consumer Commentors Comments at 35.

commenters are concerned that the X-factor is targeted exclusively to the switching basket during the first period of the CALLS transition plan until average switched access rates are 0.55 cents for large price cap carriers and 0.65 cents for small ones.[76] They argue that this will unreasonably allow common line and special access prices to drift upwards and fail to take into account the productivity advances that are achievable in those price cap baskets. Second, other parties argue that setting the X-factor to the rate of inflation once average switching rates have reached targeted levels will eliminate price cap incentives to become more productive and will lead to pricing that is too high.[77] For the reasons stated below, neither of these concerns has any merit.

A. Modifying the X-factor reasonably resolves a continuing controversy and will produce stable business expectations

A modification of the X-factor is necessary to accommodate competing interests. It is well known that the X-factor level has been a matter of significant controversy since it was first adopted. The FCC has always recognized that setting the X-factor was an imprecise science.[78] It was precisely because of this fact that the FCC originally adopted two X-factors, with differing carrier risk and

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75 *See generally*, Comments of GTE Corp., CC Docket 99-117 (filed Sept. 23, 1999).

76 *See* CPI Comments at 5-6, Joint Consumer Commentors Comments at 35-36; MCI Comments at 10.

77 *See* MCI Comments at 17-18; New Jersey Comments at 17-18.

78 *See LEC Price Cap Order*, 5 FCC Rcd at 6798.

reward consequences, during the first four years the price cap plan was in effect.[79] In the last four years alone, there have been two separate sets of X-factors applicable during different time periods. The most recent revision to the X-factor – 6.5% – was based on a completely different approach to creating the factor[80] and was found to be arbitrary and capricious by an appellate court and remanded to the FCC. The court concluded that the FCC arbitrarily picked its data to inflate the X-factor and that it did not provide a sustainable justification for increasing the X-factor in the amount of the 0.5% consumer productivity dividend.[81] Six months after this remand, the agency has issued still another NPRM that proposes three new alternative methodologies for determining the factor and asks about the extent to which the new factor should be applied retroactively to ILEC rates.[82] It is not certain at this date whether any of these proposals will lead to a lower or higher X-factor.

GTE has taken the position, and continues to believe, that the current 6.5% X-factor is seriously overstated. USTA has submitted persuasive data

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[79] In 1990, the Commission adopted X-factors of 3.3% and 4.3%. *See LEC Price Cap Order*, 5 FCC Rcd at 6796. The higher of these two X-factors had a more generous sharing mechanism for ILECS. *See id.* at 6801-06. This arrangement applied for the years 1991-94.

[80] *See Price Cap Performance Review for Local Exchange Carriers*, 12 FCC Rcd 16642, 16697 (Fourth Report and Order) (1997).

[81] *See USTA v. FCC*, 188 F.3d 521, 527 (D.C. Cir. 1999)

[82] *See Price Cap Performance Review for Local Exchange Carriers, Access Charge Reform*, FCC 99-345 (Further Notice of Proposed Rulemaking) (rel. Nov. 15, 1999).

that shows that, even if the FCC's total factor productivity methodology were used, productivity levels for 1997 and 1998 are 3.62% and 3.03% respectively.[83] If these data are accorded due weight on remand, and if these are applied retroactively as the Commission has done when it increased the X-factor, a substantial increase in the PCI level going forward could be expected. This, of course, could lead to caps that are higher than either current or CALLS levels. CPI, MCI and Ad Hoc, on the other hand, have argued that the FCC's methodology is flawed and that the factor should be closer to 9 or 10 percent.[84] Of particular significance, one of the CALLS members, AT&T, as recently as last year has argued that the X-factor should be set between 9.2% and 10%.[85] Presumably, AT&T is likely to resume this argument in the event the Commission does not adopt the CALLS plan in its entirety. This controversy can be expected to rage unabated for years to come.

As a consequence, it is currently an unknown what the future X-factor will be. This continuing uncertainty itself seriously undermines the efficiency incentives built into price caps. It also disrupts business expectations of both ILECs and new entrants. None of these players can rationally evaluate future investment decisions because ILEC pricing is so unstable. Stabilizing the X-

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83 *See* Gollop Study at 8, Table 1.

84 CPI Comments at 6; MCI Comments at 16; Comments of Ad Hoc Telecommunications, CC Docket No. 96-262, at 20-25 (filed Oct. 26 1998).

85 *See* Comments of AT&T Corp. to Update and Refresh the Record, CC Docket No. 96-262, at 22 (filed Oct. 26, 1998).

factor will produce enormous benefits in settling business expectations and encouraging investment by existing and new players alike.

B. Targeting the 6.5% X-factor to traffic-sensitive switching rates is in the public interest

The CALLS plan proposes to resolve this ongoing debate over the X-factor level by keeping the current factor, 6.5%, for an interim period, to reduce traffic sensitive switching rates. These are the rates that have been the most controversial: IXCs have indicated for a number of years that they believe switching rates are too high.[86] Even GTE believes that usage rates have been relatively high when compared to market levels. For instance, GTE has indicated that, if access charges were more rationally structured, the local switching rate would be closer to 0.8 cents,[87] which is higher than the CALLS target rate for all traffic sensitive switching rates of 0.55 cents. Therefore, it is likely that the proposed target rates will be lower than what could reasonably be expected through the operation of reasonable regulation without the CALLS plan.

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86 Of course, these rates are exactly where they should be expected to be under the current price cap plan. These rates are reasonable in their context because they comply with FCC regulations. Nevertheless, GTE has always been willing to reform switching prices as long as other parts of the price cap plan are modified to rectify other access pricing deficiencies. This is the reason why switching prices can be reformed only upon a comprehensive solution to access pricing and elimination of implicit subsidies, a solution the CALLS plan achieves.

87 Comments of GTE in *Access Charge Reform Proceeding*, CC Docket No. 96-262 (Refresh comment cycle), at 7 n.16 (filed Oct. 26, 1998). This amount assumes that all access prices are set at forward-looking levels and GTE current

Targeting reductions to traffic-sensitive switching rates exclusively to achieve these lower switching prices, would produce a result that the Commission[88] and most parties[89] agree is an important, immediate competitive goal. This approach is also consistent with FCC precedent that ordered the X-factor to be targeted to reduce the transport interconnection charge ("TIC"), an access pricing element that the Commission has been wanting to eliminate, consistent with prudent cost-recovery principles for ILECs, for some time.[90] The Commission recognized there, as it should here, that a brief targeted application of the X-factor can be a reasonable mechanism to make corrections to access pricing in the public interest, without doing serious violence to price cap incentives and prudent cost recovery.

After average switching prices arrive at a dramatically lower level, the goals of reduced access pricing will largely be achieved. At those lower levels, it is highly doubtful that the significant productivity required at the 6.5% level is reasonably achievable. Therefore, it will be necessary to reduce the X-factor from the 6.5% level. Setting the rate to equal the inflation factor will ensure that there is a freeze on average rates, thereby continuing to protect customers from increases. This new X-factor level will then be applied to all baskets, as under

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revenues are maintained.

[88] *See Access Reform Order*, 12 FCC Rcd at 15994-96.

[89] *See id.* at 16249 nn.484, 485 (citing numerous comments).

[90] *See id.* at 16083-84.

the current scheme. Because of the impact of rising input costs, carriers will continue to be forced to achieve productivity gains to remain profitable, precisely the result that the Commission and the concerned commenters seek to achieve.[91] For these reasons, the Commission should conclude that the modification of the X-factor in the price cap plan is in the public interest and should be adopted as proposed.

C. There is no justification for reducing average switching rates below the targeted levels

Some parties argue that switching rates should be further forced down, at the 6.5% rate, even after the targeted levels are achieved.[92] They further argue that these rates should be set at TELRIC[93] or reciprocal compensation levels.[94] The FCC should reject this approach for five reasons.

First, achievable productivity gains are rapidly declining. It is clear from FCC-published industry statistics that minute growth has substantially declined from its high of 10.9% in 1990, to 4.3% in 1998.[95] Some companies have actually reported growth rates as low as 3%. Therefore, traditional expectations

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91 Because of this effect of the plan, NASUCA is simply wrong that ILECs will receive a windfall under the plan because of declining costs.

92 *See, e.g.*, MCI Comments at 17-18.

93 *Id.*

94 *See* CompTel Comments at 13; Comments of Washington Utilities and Transportation Commission at 11-13.

95 *See Trends in Telephone Service*, Industry Analysis Division, Common Carrier Bureau, FCC, at 12-5 (Sept. 1999).

of skyrocketing demand are disappearing. The primary reason for this decline is loss of minutes to competitors, as well as to growth of Internet and special access alternatives.

Second, the FCC has repeatedly refused to prescribe access prices at TELRIC because it favors a market-based approach to access pricing rather than a prescriptive one.[96] Although the CALLS plan has prescriptive elements to it, it does not seek a total abandonment of a market-based approach, as a rate prescription would. Further prescriptive actions will do more damage than good because there is no way for government rules to set prices more efficiently than a competitive marketplace.

The CALLS members' expectations are that reformation of access pricing will provide a framework in which competition can thrive in all telecommunications markets. Such competition should obviate the need for further regulatory actions because competition will force rates to competitive levels. Moreover, forcing rates down further will not help achieve a more competitive environment. Rather, it will send inaccurate pricing signals to the market that will result in inefficient entry and investment. It will also reignite the war on access pricing that has been delaying comprehensive reform for years, delaying the achievement of the real public interest benefits that can be achieved under the CALLS plan. And, of course, once the X-factor is set to

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96 *See Access Reform Order*, 16094-95, 16106-07; *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, 14 FCC Rcd 14221, 14225-14226 (Fifth Report and Order and Further Notice of Proposed Rulemaking) (1999).

equal inflation, a freeze on average rates will be in effect.[97] As indicated previously, this will continue to require companies to achieve productivity gains, consistent with the price cap incentive system, which will continue to place moderating pressure on rates.

Third, there is no reason to be certain that the productivity factor would ever push average traffic sensitive rates below targeted levels. As indicated previously, it is inappropriate to assume, as some do, that the total X-factor reduction is less than the total that would otherwise occur.

Fourth, for the reasons stated in Section III, above, TELRIC or reciprocal compensation levels are not the appropriate target to be achieved in any event.

Fifth, the 0.55 cents target rate is a ceiling, not a floor,[98] and thus may go down further as market conditions dictate. In that event, there would be no need for regulatory action that accomplishes the same result. Competition, of course, is a better and more efficient mechanism to regulate pricing than is government action. For all these reasons, GTE urges the Commission not to take action that further reduces switching rates below the levels targeted in these CALLS plan because it will not benefit consumers.

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[97] Those parties that argue that the X-factor has been eliminated under CALLS are thus wrong. *See* CPI Comments at 5; Joint Consumer Commentors Comments at 35-36.

[98] The New Jersey Ratepayer Advocate's belief that the target rates are a floor is thus completely wrong. *See* New Jersey Comments at 3-5, 17-19.

D. Common line rates will be reasonable even without applying the X-factor to the common line basket until switching rates reach targeted levels

Several parties argue that the price cap scheme will be undermined if the X-factor does not apply to the common line basket until switching rates reach targeted levels.[99] They claim that there have been productivity gains in the common line caused by growth in second lines and that DSL technology has enabled loops to be used for additional services.[100] Because the overall CALLS plan achieves efficient pricing, these arguments should be rejected.

No party has produced convincing evidence that common line pricing will become unreasonable with the modifications to the X-factor proposed by CALLS. Common line pricing initially was governed by the separations process, which allocated 25% of loop costs to the interstate jurisdiction, and more recently, by the price cap formulas that have been ratcheting down common line rates for close to a decade. As indicated previously, these formulae have forced common line prices down, even though efficiency gains have been modest. The MDTE has recognized this fact when it concluded that ILECs are forced to "price fixed network access prices below efficient levels and make up the difference by over-pricing usage charges."[101]

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99 CPI Comments at 5-6; NASUCA Comments at 11-13.

100 CPI Comments at 6; NASUCA Comments at 12.

101 MDTE Comments at 9.

More importantly, as competition for the loop grows, these common line rates will be exposed to ever increasing amounts of competition, which should produce a market-driven moderating influence on these rates. This competition will be much more likely to flourish with the CALLS restructure and repricing of access rates. As has been stated by GTE and numerous other parties, competition is the consumer's best hope for efficient pricing. Indeed, that principle is what Congress was relying on when it passed the 1996 Telecommunications Act.

Those that argue that the interstate portion of TELRIC loop costs are fully recovered with existing SLCs are flatly wrong. First, TELRIC is not the appropriate measure of costs: As indicated previously, rates need to be designed to recover total, not incremental costs. Second, TELRIC is not an appropriate measurement of cost. Finally, the interstate portion of loop and port costs determined by the Commission's HPCM model, with the latest inputs, does not differ from the average SLC recovery that occurs at the end of the transition period in the CALLS plan.

At base, the CALLS proposal will achieve much more significant consumer gains than the current system will and should be adopted for that reason alone. Deconstructing the CALLS proposal to tweak individual portions of the plan will inevitably destroy the Coalition and return the Commission to the dark days of all-out warfare on the access and universal service front. It is far better to achieve an imperfect result that will produce clear improvements than to continue to seek the perfect solution, but never actually achieve it. The latter scenario would disserve the public interest, as all parties to this proceeding have attested.

E. Competition will keep special access pricing at reasonable levels

MCI argues that it is unreasonable not to apply the X-factor to the special access basket cap until the targeted switching rates are achieved.[102] The FCC should not be concerned with the CALLS plan's treatment of special access rates.

First, special access is already highly competitive and competition is rapidly growing in that market segment. GTE has significantly decreased special access rates during the 1990s because of this competition. In fact, during this time frame competitive access providers have challenged GTE special access tariff revisions, alleging that the rate reductions were predatory.[103] In addition, Phase I and Phase II triggers for many major markets will be reached in the not-too-distant future so that these services drop out of price cap regulation altogether.

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102 *See* MCI Comments at 10.

103 *See Expanded Interconnection With Local Telephone Facilities*, 7 FCC Rcd 7369, 7458-59, 7461-62 (1992) (Report and Order and Notice of Proposed Rulemaking) (discussing allegations of predatory volume and term discounts). The Commission found that LEC discounts were generally reasonable and eventually concluded that "we are not persuaded that LEC offerings are priced below their average variable cost." *Expanded Interconnection With Local Telephone Facilities*, 9 FCC Rcd 5154, 5201 (1994) (Memorandum Opinion and Order).

Second, the CALLS plan permits carriers to continue to target X-factor reductions to special access services if they so choose in order to prevent any significant disparity in rates between dedicated switched transport and functionally equivalent special access services.[104] It is likely that carriers will not want these rates to become misaligned in order to prevent arbitrage.

Third, price caps do not mandate that rates be maintained at a certain level. Carriers are free to price below the cap. As indicated in the last paragraph, competition will ensure that pricing is reasonable. For these reasons, there is no reason for the FCC to be concerned about the treatment of special access pricing levels under the CALLS plan.

V. THE CALLS PROPOSAL'S UNIVERSAL SERVICE FUND SIZE IS REASONABLE AND NECESSARY TO ENSURE COMPLIANCE WITH SECTION 254 OF THE ACT

The Commission has recognized that it is obligated under the Act to design a universal service program that is sufficient, specific, predictable, and explicit.[105] In an earlier proceeding, GTE estimated the amount of implicit support generated annually by interstate access rates at $5.9 billion annually. The CALLS proposal attacks the major sources of implicit universal service support in interstate access charges by reforming the common line rate structure

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104 *See* CALLS Memorandum at 10-11.

105 *See, e.g.*, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Ninth Report & Order and Eighteenth Order on Reconsideration*, FCC 99-306, at ¶ 1 (rel. Nov. 2, 1999) (noting that Section 254 instructs the Commission "to establish specific, predictable, and sufficient mechanisms to preserve and advance universal service").

and by reducing per-minute access charges. However, even with these reforms, additional support will be needed to ensure that telecom services "are available at rates that are reasonably comparable to rates charged for similar services in urban areas."[106] Therefore, the CALLS proposal also includes a modest $650 million in explicit support targeted to high cost areas. GTE is perplexed that any party would characterize universal service support to high cost areas as a type of ILEC "slush fund"[107] or "golden parachute,"[108] when the benefit of such a fund would inure to end-user consumers by keeping their rates reasonable. Instead, this amount represents a reasonable and necessary amount of funding to ensure that the Commission will meet its Section 254 obligations and will promote competition by, for the first time, making these amounts explicit and portable to competitors.

A. The CALLS proposal contains a modest, compromise universal service fund that does not begin to recover all current subsidy amounts found in interstate common line pricing

While on its face the $650 million that the CALLS Proposal establishes for the universal service fund is a large number, this amount actually represents a compromise figure that is far lower than even the most conservative estimate of implicit subsidies in access charges. These estimates are based on the existing

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106 47 U.S.C. § 254(b)(3).

107 CompTel Comments at 15.

108 PUC of Ohio Comments at 24 ("PUCO").

price-capped revenues, which are the appropriate basis for determining the subsidy amounts.

The mechanism for distributing universal service funding in the CALLS plan is based on a comparison of the level that flat monthly end-user charges would reach in each zone, absent the support mechanism, with a cap designed to ensure that rates are affordable, and reasonably comparable. The difference would be the support necessary to fully fund the maintenance of the cap. This approach properly relates universal service directly to ratemaking, rather than to an abstract calculation divorced from the rates customers actually pay. This methodolgy is very similar to a proposal recently developed by two members of the Commission's staff, Evan Kwerel and former chief economist William Rogerson. They estimated that the amount needed to fund a $6.50 SLC cap would be approximately $1.9 billion.[109] The distribution mechanism used to calculate support in the CALLS proposal, which uses a similar calculation, would imply a fund of just over $1 billion. The difference in these two estimates reflects, first, the different caps proposed by CALLS ($7 for primary and non-primary, $9.20 for multiline business), and, second, certain methodological

[109] William Rogerson and Evan Kwerel, *A Proposal for Universal Service and Access Reform*, CC Docket Nos. 96-45, 96-262, at 15 (filed May 27, 1999). It is important to note that this estimate grows to $3.2 billion if the primary residential SLC cap is reduced by $2.00, from $6.50 to $4.50. *See id.* This fact highlights the critical importance of the level of the SLC cap to the amount of additional funds needed to support universal service.

differences in the calculation.[110] GTE believes that this last estimate is extremely conservative.

However, while the CALLS coalition has proposed that the calculation presented in the plan is a reasonable way to *distribute* support to different areas, not all of the CALLS members agree that this method is appropriate for estimating the *level* of support. In order to achieve a compromise that could be implemented, the CALLS members agreed to cap the size of the fund at $650 million.

Further, the $650 million figure represents the estimate of parties that have diametrically opposite interests in this debate. On one side of the issue sit one group of carriers, such as some ILECs, that are largely net recipients of universal service funds. On the other side of the issue sit another group of carriers, such as AT&T, an interexchange carrier, and other ILECs, that are net contributors into the universal service fund. Given the fact that each of these sides has different incentives with respect to the size of the universal service fund and the amount of subsidies that are shifted out of access charges into an explicit fund, any estimate upon which both sides can agree will inherently be reasonable. In fact, this proposition is borne out by the fact that MCI, an interexchange carrier that was *not* part of the negotiations amongst the CALLS

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110 The Rogerson/Kwerel calculation used a proportional markup to develop rates for each zone, while the CALLS calculation uses a constant markup. The Rogerson/Kwerel paper also examined different geographic zones.

members, agreed that “the CALLS plan’s interim universal service fund size, capped at $650 million, is acceptable on an interim basis.”[111]

Finally, any notion that this figure is not justifiable because it represents a calculated compromise is questionable.[112] Any given estimate of implicit subsidies is by definition an estimate and varies widely,[113] in part, because of the differences in the assumptions that each of the models use. As a result, decisions must be reached with respect to the inputs, the factors, the assumptions, and the calculations. This type of policymaking is not new. In fact, the same parties complaining about the use of a compromise – certain state commissions – typically accept stipulated amounts of revenue recovery agreed to by opposing carriers and consumer advocates in rate cases. This approach is certainly in the public interest, particularly when faced with an intractable issue, because it reduces the costs of arriving at a definitive answer, allows an answer to be reached in less time, and produces the certainty that all parties need.

B. The CALLS universal service proposal is far superior to the current system of implicit subsidies and unpredictable funding

The CALLS proposal will establish a level of support to ensure affordable and comparable end user rates through an explicit, predictable, and competitively-neutral universal service program. As such, the CALLS proposal

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111 MCI Comments at 11.

112 *See* PUCO Comments at 21-22.

113 *See* CALLS Memorandum at 25 (citing ranging estimates from as high as $3.9 billion to as low as $250 million). In fact, Rogerson and Kwerel provide two

is consistent with Section 254 and represents a superior alternative to today's situation, in which implicit, nonportable subsidies continue to exist in access rates.

Refusing to eliminate implicit subsidies fails to satisfy the requirements of the Act because Section 254 expressly requires that "[a]ny such [universal service] support should be explicit."[114] Further, Congress and the Commission both recognize that maintaining a system that permits implicit subsidies "promote[s] potentially inefficient competition" and "can also delay or deny the benefits of competition to residential and high cost customers." [115] Finally, the continued existence of implicit support is increasingly threatened by the growth in competition in local exchange markets.[116]

The experience of the MDTE highlights the benefits of the CALLS proposal. In Massachusetts, MDTE recognized the problems with implicit rate subsidies and adopted a policy whereby it "rebalanced rates significantly."[117] In fact, MDTE stated that the changes it made "were greater in magnitude than those contemplated in the CALLS plan."[118] Yet, "contrary to the dire predictions that were made at the beginning of the process," MDTE concluded that its

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estimates, one $3.2 billion, the other $1.9 billion.

114 47 U.S.C. § 254(e).

115 *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 8078, 917 (Seventh Report and Order), (1999).

116 *Id.*

117 MDTE Comments at 6.

118 *Id.*

program "did not adversely affect universal service in Massachusetts."[119] In fact, the agency credits its policy with fostering lower business rates and promoting the entry of additional competitors.[120] It is for these reasons that MDTE spoke from experience when it stated: "[t]he CALLS Plan would not harm – and would in fact promote – the policy goal of universal service."[121]

Contrary to the wrongheaded notions of other commenters,[122] the proposed fund does not subsidize carriers nor provide a guaranteed subsidy to a selected set of carriers.[123] These parties fail to appreciate the fact that the fund is used to subsidize the costs *to the end user customer*. The fact that the support subsidizes the end user is highlighted by the requirement that such support be portable – that is, it moves with the end user to the carrier of the *end user's* choice. This latter requirement also undercuts the notion that the fund will provide a certain set of carriers with a guaranteed revenue stream or a guaranteed subsidy. A carrier receives the subsidy only if the customer it serves qualifies for the subsidy *and* if the carrier keeps the customer.

Finally, the Commission need not revisit the arguments of some parties that somehow the CALLS proposal would be a windfall to CLECs because they

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119 *Id.*

120 *See id.* at 7.

121 *Id.* at 5.

122 *See* ALTS Comments at 2-4; C&W USA Comments at 5; CompTel Commetns at 14-15; Comments of Intermedia Communications, Inc. at 6-7.

123 GTE finds it quite ironic that some parties, while claiming that a $1 increase in the SLC is disastrous, simultaneously oppose a universal service program that could maintain lower SLCs in high cost areas. *See* NASUCA

do not need the proposed amount for adequate cost recovery.[124] The Commission has twice addressed this issue squarely and rejected those arguments. In the *Ninth Report and Order*, the Commission reiterated its decision that "the same amount of support…received by an incumbent LEC should be fully portable to competitive providers."[125] The provision on different levels of funding "could discourage competitive entry in high-cost areas and stifle a competitor's ability to provide service at rates competitive to those of the incumbent."[126] Nothing has changed with respect to this issue in the short time since the Commission has released that order.

VI. ILEC END USER CHARGES TO RECOVER UNIVERSAL SERVICE CONTRIBUTIONS ARE PERMITTED UNDER THE ACT AND THE COMMISSION'S RULES

Joint Consumer Commentors and NASUCA claim that the CALLS plan violates Section 254(d) insofar as the plan provides that ILECs will recover universal service contributions through a flat end user charge.[127] This argument should be rejected for two reasons. First, the plan permits, but does not require,

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Comments at 8.

124 *See* PUCO at 24-25.

125 *Federal-State Joint Board on Universal Service*, FCC 99-305, CC Docket No. 96-45, ¶90 (Ninth Report and Order and Eighteenth Order on Reconsideration), (rel. Nov. 2, 1999) *("Ninth Report and Order").*

126 *Id.* ¶ 90.

127 Joint Consumer Commentors Comments at 31; Comments of NASUCA at 8.

that the ILEC recover contributions on a flat basis. Carriers may choose to recover the amounts on a percentage of revenue basis if that makes business sense.

Second, current law already permits direct end user charges. Section 254(d) requires that providers of interstate telecommunications services shall contribute to universal services, but says nothing about how such contributions should be collected from end users. and with the Commission's implementation of that decision. The FCC recently adopted an order in response to the court's decision in *Texas Office of Public Utility Counsel v. FCC*, [128] that permitted just such a charge.

In that decision, the Commission permitted price cap incumbent ILECs to begin recovering universal service contributions through an express line-item charge to end users.[129] Therefore, the CALLS plan does not grant price cap LECs additional means of recovering universal service contributions other than those already permitted under existing Commission rules.

VII. CONCLUSION

The Commission has an unprecedented opportunity before it to resolve some of the most difficult, controversial, and contentious issues surrounding the telecommunications industry. For years, the Commission has wrestled with the

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[128] *Texas Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

[129] *Federal State Joint Board on Universal* Service, FCC 99-290, CC Docket No. 96-45, ¶ 33 (Sixteenth Report and Order on Reconsideration in CC Docket No. 96-45) (rel. Oct. 8, 1999).

issues raised in the CALLS proposal. However, unlike past proceedings where the Commission is faced with nothing but diametrically opposed interests, here the opponents have cooperatively crafted a comprehensive proposal that accommodates the interests of all the parties and advances the public interest. Like any compromise, this plan represents an amalgamation of “gives and takes” and a careful balance of these interests. Therefore, it is important that the FCC adopt the CALLS proposal as presented.

Respectfully submitted,

GTE SERVICE CORPORATION
and its
above-listed affiliates

By: __________________________

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036
(202) 463-5214

Gregory J. Vogt
Suzanne Yelen
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge, MS HQ-E03J43
P.O. Box 152092
Irving, Texas 75015-2092
(972) 718-6361

Its Attorneys

December 3, 1999